Meeting of the High Contracting Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects

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Summary record of the 2nd meeting
Held at the Palais des Nations, Geneva, on Thursday, 13 November 2014, at 3 p.m.

Chairperson: Mr. Henczel ..... (Poland)

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The meeting was called to order at 3.10 p.m.

General exchange of views (*continued*)

1. **Ms. Naidoo** (South Africa) said that South Africa welcomed the actions taken by the Secretary-General of the United Nations, Mr. Ban Ki-moon, and by the High Representative for Disarmament Affairs, Ms. Angela Kane, to promote the universality of the Convention. She stressed that South Africa had submitted all its national reports as required by the Convention and strongly encouraged the High Contracting Parties and signatory States to do the same. The South African authorities were in favour of further discussions on the issue of improvised explosive devices (IEDs) and mines other than anti-personnel mines (MOTAPM). The delegation of South Africa had participated in the informal meeting held in May 2014 on lethal autonomous weapons systems (LAWS) and supported further discussion on those new technologies within the framework of the Convention. One of the key questions in that regard was whether those new technologies of warfare were compliant with the rules of international humanitarian law, including the principles of distinction, proportionality and military necessity, and what impact they might have on human rights.

2. **Mr. Wilmshurst** (United Kingdom of Great Britain and Northern Ireland) expressed his country's gratitude to the French Republic for its work in facilitating the discussions on LAWS and for its very helpful summary of the discussions that had taken place at the informal meeting of experts in May. He encouraged all States to engage in a legal review process before adopting any weapons system for use by their armed forces, as directed by article 36 of the Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (Protocol I). The United Kingdom supported continuing the mandate for discussion of LAWS in 2015 and looked forward to contributing to those discussions.

3. **Mr. Mercado** (Argentina) said that Argentina encouraged the High Contracting Parties to continue their work on the issue of MOTAPM. The Argentine Republic had a regulatory framework and standards in place that were in line with the international instruments to which it was a party with respect to the laying of MOTAPM and the demarcation, marking and registration of areas contaminated with such mines. It was in favour of holding discussions with a view to drafting, in the near future, an international instrument banning MOTAPM that did not meet certain standards. It also believed it was necessary to limit the use of LAWS, particularly in view of their potential impact on civilians.

4. **Mr. Levon** (Israel) said that his country regretted that the intensive efforts undertaken to negotiate a sixth protocol, on cluster munitions, had not come to fruition. Israel had participated actively in the negotiations that had taken place between 2002 and 2006 on the issue of MOTAPM. It had associated itself with the declaration made on behalf of a group of States at the end of the Third Review Conference of the High Contracting Parties to the Convention, in 2006, announcing, inter alia, the adoption of certain practices limiting the use and transfer of MOTAPM, and it would like to see the issue discussed further within the framework of the Convention. The threat of man-portable air defence systems (MANPADs), short-range rockets, mortars and surface-to-air missiles had been clearly demonstrated in recent years in the Middle East and in other areas around the world. Such weapons should not reach the hands of terrorists and non-State actors and should only be in the hands of responsible, sovereign States under appropriate stockpile management arrangements.

5. The Israeli delegation welcomed the work undertaken in 2014 on the issue of LAWS and believed that it merited further study in the framework of the Convention. It also welcomed the continued work on IEDs and hoped that, in the near future, further concrete

progress would be made on the issue, which was vital not only for armed forces but also for States parties whose forces were engaged in peacekeeping missions and for humanitarian workers.

6. **Mr. Varma** (India) said that the Convention was the only forum of a universal character that brought together all the main users and producers of certain conventional weapons. It remained a relevant framework for addressing the challenges posed by the development or use of new weapons and new weapons systems in respect of international law, and specifically international humanitarian law. India supported the plan of action to promote the universality of the Convention and the Sponsorship Programme within the Framework of the Convention. It had made regular financial contributions to the Programme and had been an active participant in the meetings of the Programme's Steering Committee. It wished to announce that it would make a further contribution of US$ 10,000. India supported the continuation of discussions on IEDs under amended Protocol II and continued discussions on LAWS in 2015 on the basis of the mandate agreed at the 2013 Meeting of the High Contracting Parties. It had participated in the informal meeting of experts held in May 2014. The discussions held within the framework of the Convention should lead to increased controls on international armed conflicts, founded on international law.

7. **Ms. Marcaillou** (Observer for the United Nations Mine Action Service (UNMAS)), speaking on behalf of the Inter-Agency Coordination Group on Mine Action, said that the debate surrounding the use of LAWS had demonstrated that the Convention still provided a relevant framework in which to address issues of concern to States, international organizations and civil society. The United Nations maintained its position that the High Contracting Parties should make full use of the Convention framework to continue to explore ways of ensuring that anti-vehicle mines no longer harmed civilians, hindered the provision of humanitarian assistance or blocked social and economic development. The United Nations urged the High Contracting Parties to comprehensively address the impact of that MOTAPM had in humanitarian terms. The Organization also remained concerned about the devastating impact of the use of explosive weapons in populated areas. The Secretary-General of the United Nations had expressly called upon parties to conflicts to refrain from using explosive weapons with wide-area effects in populated areas. The United Nations urged the High Contracting Parties to provide information on the practices and policies they had adopted to limit the use of such weapons. Finally, she congratulated Iraq on becoming a party to the Convention and encouraged all other States that had not yet done so to follow suit.

8. **Ms. Lawand** (Observer for the International Committee of the Red Cross (ICRC)) commended the States parties' continuing efforts to examine ways of addressing the concerns raised by explosive remnants of war and IEDs. Like others, her organization was concerned about the use of incendiary weapons. It supported the calls made that day for further work on the issue in the context of the Convention, including an examination of the adequacy and implementation of Protocol III, and welcomed the study entitled "The Humanitarian and Developmental Impact of Anti-Vehicle Mines", which had been published in 2014 by the Geneva International Centre for Humanitarian Demining and the Stockholm International Peace Research Institute. The study highlighted the serious effects of anti-vehicle mines on civilian populations and the humanitarian organizations that worked to assist them. ICRC urged the States parties to the Convention to consider drafting new rules to limit the indiscriminate effects of anti-vehicle mines. In addition, the issue of LAWS warranted continued attention, and she urged States parties to the Convention to extend the mandate to discuss those weapons. Thought should be given to how autonomy in weapons systems was developing, particularly with respect to the critical functions of searching for, identifying, selecting and attacking targets, and the legal and ethical issues involved. It was also necessary to explore the notion of meaningful or appropriate levels of

human control or judgement in relation to autonomous weapons systems. The Convention should provide a valuable forum for discussions that would enable a better understanding of the concept from a legal, technical, operational and ethical perspective. In addition, her organization emphasized the critical importance of carrying out legal reviews of any new weapons system, including weapons modified to increase autonomy in their critical functions, to ensure that they could be used in accordance with international humanitarian law. Lastly, despite the absence of an express legal prohibition against explosive weapons with a wide impact area, the use of such weapons should be avoided in densely populated areas, owing to their indiscriminate effects.

9. **Mr. Nash** (Observer for Article 36) said that Article 36 was encouraged by the discussions on autonomous weapons held in recent months within the framework of the Convention. It looked forward to those discussions continuing and intensifying in 2015 with a view to developing new international rules. Article 36 hoped that in 2015 States parties would be able to provide concrete examples of how they managed weapons systems that detected and engaged targets, in order to ensure that individual attacks were always under meaningful human control. Such material would helpfully inform a discussion of the sorts of controls and new international rules that would be needed to prevent the development of fully autonomous weapons. Article 36 welcomed the growing interest in the need for weapons reviews but was not convinced that national weapon review mechanisms constituted a sufficient response to concerns regarding the development of autonomous weapons systems.

10. Human Rights Watch had documented significant civilian harm from the use of incendiary weapons during the current conflicts in the Syrian Arab Republic and Ukraine. That issue should be revisited with a view to prohibiting the use of incendiary weapons. He thus welcomed the support for that idea shown by the Netherlands and other States that favoured formal deliberations to strengthen Protocol III. Lastly, Article 36 believed that the use of explosive weapons in populated areas should stop, given the serious impact they had in humanitarian terms.

Lethal autonomous weapons systems

11. **Mr. Simon-Michel** (France) presented the report of the informal Meeting of Experts on lethal autonomous weapons systems (LAWS) (CCW/MSP/2014/3), held in Geneva from 13 to 16 May 2014, which had provided an opportunity to address the issue for the first time at the international level. The report was being submitted in accordance with the mandate adopted by the Meeting of the High Contracting Parties held in November 2013 and objectively described the discussions that had taken place. It also highlighted the specific issues on which there had been disagreement, such as the questions of meaningful human control and autonomy, and the points on which there was agreement, such as the need for further research and innovation in the field of civilian robotics. In addition, it highlighted the issues on which the participants had decided that further discussions were needed, such as the definition of LAWS or the ability of those systems to comply with the principles of international humanitarian law. At the end of the Meeting of Experts, 24 delegations had expressed their willingness to continue the discussions on LAWS.

12. **Mr. Kos** (Observer for the European Union), speaking on behalf of the European Union and its member States, thanked the delegation of France for chairing the Meeting of Experts held in May, which had enabled participants to exchange views on the issue of LAWS and to examine the various technical, legal, ethical and military aspects of such systems. Given that there were important issues that had not yet been resolved, the European Union supported the convening of another meeting of experts on LAWS in 2015.

13. **Mr. Herraiz** (Spain) aligned himself with the statement made by the European Union and said that continuing the reflection begun at the Meeting of Experts held in May

would mean studying in further depth the unresolved legal, technical, military and humanitarian issues. Spain shared the concerns expressed regarding LAWS, including the impact their use might have on respect for human rights and the principles of international humanitarian law. It was important to examine the issue from a security perspective in order to prevent an arms race or the acquisition of such weapons by non-State actors. While the issue of human control of such systems was currently being examined, many aspects had yet to be clarified, such as the definition of LAWS and the various levels of autonomy that might be allowed under future regulations on such weapons. Efforts should be made to define those concepts with the accuracy and precision required, with full respect for the principles of international humanitarian law and without prejudice to the right to legitimate self-defence. Spain was in favour of holding another meeting of experts on LAWS in 2015.

14. **Mr. Roche** (France) said that the discussions on LAWS were crucial, as they raised the issue of the role played by human beings in decisions to use lethal force. The rapid progress made in civilian robotics showed just how timely those discussions were; there was a need to bear in mind the dual-use nature of such technologies. There was thus a need to distinguish clearly between the civilian applications, which were useful and potentially beneficial, and the military ones, which called for discussion within the framework of the Convention. The ethical questions raised by the use of LAWS, particularly that of delegating the decision to use lethal force; the law that should apply to such systems; their ability to comply with international law and the principles of responsibility and accountability; and their suitability in an operational environment were all crucial issues that required further examination. France was convinced that the Convention on Certain Conventional Weapons was the most appropriate forum in which to address the issue of LAWS. It thus supported the idea of holding another meeting of experts for five days in 2015 and preparing documentation for that meeting.

15. **Ms. Ramírez Valenzuela** (Mexico) said that there was no consensus on the definition of LAWS or on how to deal with that complex issue. There were, however, several reference frameworks, including international humanitarian law and human rights law. Mexico was of the view that any weapons that were not compliant with the principles of international humanitarian law should be prohibited and eliminated. When international standards were adapted to address new technologies, the right to life and the right to dignity must be recognized as being of paramount importance. The Martens Clause, which stated that the laws of humanity and the dictates of the public conscience should apply in cases not provided for in international agreements, should also be respected. Discussions on the development of LAWS should be based on article 36 of Protocol I additional to the Geneva Conventions of 12 August 1949, which addressed new weapons. Mexico was in favour of holding further discussions on LAWS in the framework of the Meetings of the High Contracting Parties to the Convention on Certain Conventional Weapons and believed that, if the work was to be pursued outside that framework, a clear mandate should be defined based on scientific and technical considerations, and the participation of civil society, government experts and academia should be ensured.

16. **Ms. Maurás** (Chile) said that the Meeting of Experts represented an important step forward for the disarmament community in Geneva, particularly with regard to addressing the problems raised by military innovation. She noted with satisfaction that the efforts to monitor the implementation of the Convention were closely shadowing the progress made in the military industries. The participants at the Meeting of Experts had agreed on the need to maintain human control over LAWS so as to ensure respect for international humanitarian law. The discussions on LAWS should be guided by the Martens Clause. The decision to use lethal force must not be delegated to machines, as doing so would constitute a violation of human dignity, democracy and human rights. Her delegation believed that military use of such systems was likely to dehumanize armed conflicts. It was in favour of holding another meeting of experts in 2015.

17. **Mr. Hajnoczi** (Austria) said that he welcomed the multidisciplinary and inclusive approach followed at the Meeting of Experts in May, where important issues had been raised, including the potential impact of LAWS on peace, security and respect for international law. His delegation therefore believed that the discussions should continue and was in favour of holding another meeting of experts for five days in the spring of 2015. The participation of civil society, academia and technical experts, who had valuable expertise, should be ensured. The discussions held within the Human Rights Council complemented those held by the High Contracting Parties. His delegation considered that weapons systems not controlled by human beings violated international humanitarian law. It called on all countries that were in the process of developing LAWS to suspend their work and urged countries planning to develop such systems to refrain from doing so.

18. **Mr. Van der Kwast** (Netherlands) said that the Netherlands was in favour of holding another meeting of experts on the issue of LAWS. The meeting should be aimed at delivering concrete results. It would be helpful to further consider the concept of meaningful human control as it related to the procedure used to identify targets. The Netherlands believed that such an approach would provide a good starting point for subsequent discussions and intended to incorporate it into the research it was conducting at the national level. His country planned to inform interested States about the conclusions drawn from that research at the next meeting of experts.

19. **Ms. Stevens** (Sierra Leone) said that the issue of LAWS had for the first time been addressed at the Human Rights Council, during its twenty-third session, by the Special Rapporteur on extrajudicial, summary or arbitrary executions, who had called for the establishment of an internationally-agreed framework for the future of such weapons systems. Sierra Leone believed that the Meeting of the High Contracting Parties to the Convention on Certain Conventional Weapons provided an appropriate forum in which to discuss the matter. It was of the view that any discussion on LAWS should give consideration to issues relating to human rights, particularly the right to life, the right to dignity and the right to security of the person. Participants at the next meeting of experts should consider drawing up specific recommendations and should focus on defining concepts related to LAWS. Sierra Leone recommended establishing a hybrid mechanism to ensure that human rights issues were taken into account in future disarmament efforts.

20. **Mr. Debač** (Croatia) said that Croatia aligned itself with the statement made by the European Union and welcomed the engagement between States parties, international organizations, civil society and NGOs on the issue of LAWS. As ICRC had emphasized, more detailed deliberation was needed about what constituted adequate, meaningful or appropriate human control over the use of force. Croatia believed that talks on the issue of LAWS should continue with a view to developing a legally-binding instrument, and it was in favour of holding another informal meeting of experts in 2015. It aligned itself with the calls to ensure gender diversity among those taking part in deliberations relating to disarmament, peace and security.

21. **Ms. O'Halloran** (Ireland) aligned herself with the statement made by the European Union and said that the discussions on LAWS raised key questions about the role played by human beings in decisions to use lethal force. The concept of meaningful human control was essential and called for further reflection. Her delegation was in favour of holding a five-day meeting of experts in 2015, at which the relevant documentation would be made available to participants. It was concerned about the possible consequences of the use of LAWS in situations not covered by the Convention on Certain Conventional Weapons, which was why it considered that the issue should be taken up by other relevant mechanisms, particularly in the framework of the Human Rights Council. Lastly, Ireland supported the participation of civil society and academia in discussions on disarmament matters, including on the issue of LAWS.

22. **Mr. Wollenmann** (Switzerland) said that, given the complexity of the topic of LAWS and the uncertainty surrounding such systems, it was important to pursue work on the topic. Switzerland supported holding a five-day meeting at which documentation would be made available to the participants. The discussions should take place in subgroups rather than in plenary session and should involve a broader range of experts, and the final report of the meeting should include recommendations for future work. It was essential to examine in depth the definition and characteristics or critical functions of LAWS, and relevant technological advances should also be studied. Future discussions should focus on areas that had the potential to unite the participating States, such as the concept of meaningful human control or the fact that the development and use of LAWS should be governed by international law. His delegation welcomed the paper recently published by the United Nations Institute for Disarmament Research on the issue of increasingly autonomous technologies, which provided a good basis for further discussions. The legal review of new weapons and new means and methods of warfare was a question that must be considered in relation with LAWS. The fact that such weapons systems had not yet been developed or used should not prevent States from having a genuine discussion about them.

23. **Mr. Nagayoshi** (Japan) said that his delegation supported the continuation of discussions on the issue of LAWS within the framework of the Convention. It believed that the issue should continue to be examined in an in-depth and comprehensive manner, as it had been at the Meeting of Experts. States should agree on a definition of LAWS, though it should be recognized that it might still be too soon to engage in meaningful discussions on such a definition. Peaceful, civilian uses of the technology should also be given consideration during discussions on such weapons systems.

24. **Mr. Malov** (Russian Federation) said that the Russian Federation was not convinced that it was appropriate to continue discussions on LAWS at the current stage, given the great uncertainty surrounding many of the issues that had been discussed, particularly those concerning the definition, scope and technology of such weapons systems.

25. **Mr. Levon** (Israel) said that an open mind and an unpretentious approach were needed when discussing the legal aspects of LAWS. It was difficult to foresee what capabilities such systems might have in the coming decades, and it would be unfounded to say that they could never be used in accordance with international humanitarian law. Each system should be assessed on a case-by-case basis, taking into account its specific capabilities and the specific use for which it was intended, so as to determine whether it could function without violating the basic principles of the laws of armed conflict, including the rules of proportionality, distinction and precaution. The characteristics and capabilities of each weapons system must be adapted to its environment of use, which could be limited to a specific territory, a specific time frame or specific kinds of tasks, in order to ensure compliance with the laws of armed conflict, as was the case for other systems whose use was regulated under the Convention. Indeed, LAWS, which were more predictable than human soldiers, could simultaneously uphold the ideals of military necessity and humanitarian concern – the two pillars upon which the law of armed conflict rested. His delegation believed that the issue merited further study in the framework of the Convention in 2015.

26. **Mr. Ahn Youngjip** (Republic of Korea) said that the Republic of Korea supported extending the mandate of the meeting of experts on LAWS, which should be held back to back with the meetings of experts on the protocols to the Convention. In 2015, efforts should be made to more precisely define the concept and scope of autonomy and to address the issues of legality and accountability for the use of LAWS. The concept of "lethality" too should be addressed. Such systems should also be considered in the light of the tasks they performed, the types of targets they could attack and the contexts in which they were used.

27. **Mr. Varma** (India) said that India supported the continuation in 2015 of the discussions begun at the Meeting of Experts on LAWS, which had not produced conclusive results. Neither the key terms nor the scope of the discussions had been defined, and it remained unclear whether or not the systems in question had already been deployed. Such systems should be assessed not only with respect to international law and international humanitarian law, but also in terms of their impact on international security, as the need for arms control should be borne in mind. The concept of meaningful human control should be precisely defined, and it would be useful to know whether the definition would establish the link between autonomy and accountability. That was a critical point, as the absence of such a link could lead to a legitimization of LAWS – a matter on which there was currently no consensus among the States parties to the Convention. India believed that the mandate of the Meeting of Experts as agreed in 2013 was appropriate and should remain unchanged. It agreed that the length of the meeting should be increased to five days and that the coordinator should draft a report on his own initiative. If the report were to contain agreed conclusions, however, then it should be adopted by consensus.

28. **Ms. Pérez Álvarez** (Cuba) said that LAWS could be defined as weapons that operated without human intervention and selected and attacked targets under instructions from a computer, which could not be held accountable for violations of humanitarian law or international human rights law. While it was true that there were no international standards governing the use of such weapons systems, international law provided that States must determine whether the use of new weapons they developed or acquired was prohibited under international law. It was difficult to imagine how machines could apply international law during a military operation, for example by distinguishing between lawful and unlawful orders or by determining who was a non-combatant. Cuba was in favour of holding another meeting of experts on the issue in 2015 and making relevant documentation available.

29. **Mr. Lindell** (Sweden) said that Sweden supported holding further discussions at another meeting of experts in 2015.

30. **Ms. Hitchens** (Observer for the United Nations Institute for Disarmament Research (UNIDIR)) said that UNIDIR, with the support of the Governments of Switzerland and the Netherlands, had launched an 18-month project analysing increasingly autonomous weapons technologies. The purpose of the project was to inform and move forward multilateral discussions on the matter. In 2014, UNIDIR had focused on four aspects of autonomy in weapons systems, namely: ways to frame discussions, the concept of meaningful human control, maritime autonomy and ethical challenges. It had just published a document entitled "The Weaponization of Increasingly Autonomous Technologies". With regard to maritime autonomy, experts believed that lethal autonomous weapons were likely to first appear in armed conflicts at sea, which were governed by less restrictive rules than land battles. UNIDIR would continue its work on those issues in 2015.

31. **Mr. Sharkey** (Observer for the International Committee for Robot Arms Control (ICRAC)) urged all States parties to the Convention to develop their own policies on lethal autonomous weapons and in doing so to define exactly what they meant by "human control". ICRAC was concerned about the fundamental moral problem raised by delegating kill decisions to machines. It doubted whether LAWS could operate in compliance with international humanitarian law. The proliferation of such weapons systems was also of grave concern and might trigger a new arms race that would threaten global security. He strongly urged the States parties to move forward with their discussions and to abstain from taking any decision that would result in the full automation of warfare.

32. **Ms. Wareham** (Observer for Human Rights Watch), speaking as the coordinator of the Campaign to Stop Killer Robots, said that the Campaign was ongoing and was gaining momentum. In 2014, more than 20 Nobel laureates, scientists and a robotics company had joined the campaign. A call for a ban on lethal autonomous weapons had been launched by

representatives of religious groups and academia. The coalition of organizations supporting the Campaign was in favour of extending the mandate of the Meeting of Experts in 2015. Hopefully, the discussions would move forward more than they had at the previous meeting — in particular by resulting in a definition of the concept of meaningful human control — and civil society would be represented in all its diversity. She expressed her willingness to contribute to the work that would be carried out in 2015.

33. **The Chairperson** suggested that the mandate of the informal meeting of experts on LAWS should be extended, that the duration of the meeting to be held in 2015 should be set at five days and that documentation should be made available to the participants.

34. *It was so decided.*

35. **The Chairperson** said that he would continue his consultations for the nomination of a Chairperson of the 2015 meeting of experts and that he would inform the delegations about the outcome of those consultations by mid-December.

Consideration of the report of the Sponsorship Programme (CCW/MSP/2014/6 and Add.1)

36. **Ms. Homolková** (Czech Republic), speaking in her capacity as coordinator of the Sponsorship Programme Steering Committee, introduced the report on the Sponsorship Programme. She pointed out that the main objective of the Programme was to promote the universality and implementation of the Convention and its Protocols. Since November 2013, the Programme had sponsored 20 States. She welcomed the representatives of Montenegro and the Philippines, who were participating in the Programme that week. She commended Iraq on recently depositing its instruments of accession to the Convention. The following States, which were not yet parties to the Convention, had been sponsored so that their representatives could attend the meetings held under the Convention: Algeria, Ghana, Lebanon, Mozambique, Nigeria, South Sudan and Viet Nam. Some representatives had indicated that their States wished to accede to the Convention and its Protocols.

37. In 2012, the Steering Committee had adopted new practices for managing and administering the Programme, which was now being run more effectively. One issue remained under review: the six-week deadline for the submission of voluntary applications and identification of candidates, as Switzerland had begun applying the Schengen visa regulations. She thanked the Geneva International Centre for Humanitarian Demining for its help in administering the Programme. She urged all Member States to share their experiences in promoting the implementation of the Convention. The Steering Committee had reviewed the Programme's financial position, which had greatly worsened in recent months. Fundraising activities had been undertaken, and she thanked the following States for making financial contributions to the Programme since the meetings held under the Convention in 2013: Australia, China, France, Germany and Turkey. She expressed her deep appreciation to France and India, which had announced new contributions, and she welcomed the support in kind provided by Switzerland.

38. **The Chairperson** suggested stating in the final report that the High Contracting Parties welcomed the work of the Sponsorship Programme and thanked the Geneva International Centre for Humanitarian Demining for administering the Programme. Those States that were in a position to do so would also be asked to participate in the Programme.

39. *It was so decided.*

The meeting rose at 5.45 p.m.